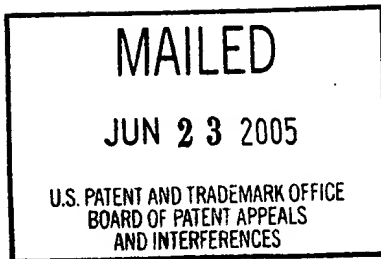


The opinion in support of the decision being entered today was ~~not~~ written for publication and is ~~not~~ binding precedent of the Board.

Paper No. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte GEORGE KING

Appeal No. 2004-1579
Application No. 09/496,549

ON BRIEF

Before HAIRSTON, CRAWFORD and SAADAT, **Administrative Patent Judges.**

CRAWFORD, **Administrative Patent Judge.**

ON REQUEST FOR REHEARING

Appellant has filed a paper under 37 CFR § 1.197(b) requesting that we reconsider our decision of January 26, 2005, wherein we affirmed the rejection of claims 32 to 40 under 35 U.S.C. § 102.

Initially, we note that this request is filed pursuant to 37 CFR § 1.197(b) which provides:

Appellant may file a single request for rehearing within two months from the date of the original decision, unless the original decision is so modified by the decision on rehearing as to become, in effect, a new decision, and the Board of Patent Appeals and Interferences so states. The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked in rendering the decision and also state all other grounds upon which rehearing is sought. See § 1.136(b) for extensions of time for seeking rehearing in a patent application and § 1.550(c) for extensions of time for seeking rehearing in a reexamination proceeding. (emphasis added)

Appellants direct our attention to the portion of our decision wherein we stated:

... appellant has not directed our attention to evidence that the term "termination unit" has a special meaning to persons skilled in the art (page 3 of decision).

In response, appellant argues that the term "termination unit" does have a special meaning and relies on Newton's Telecom Dictionary and a Verizon definition which are discussed for the first time in the request for rehearing.

We remind appellant that a request for rehearing is limited to points that were misapprehended or overlooked by this panel in rendering the original decision. As this evidence was not before the Board when the original decision was rendered it could not have been overlooked. As such, appellant's request fails on this basis alone.

Further, as this evidence was not relied on in the brief or the reply brief and appellant has not shown good cause why it was not earlier submitted, this evidence is not properly admissible at this point in the proceeding. 37 CFR § 1.195.

In any case, while the Newton Telecom Dictionary definition states that a classic line termination device is a NT1 at the user side of the interface, this definition does not state that the NT1 device is the only device that can be considered a termination device. Likewise, the Verizon definition, while stating that certain equipment is considered a line termination, does not state that the devices described are the only devices that can be considered a termination device.

Appellant also directs out attention to appellant's specification and notes that the specification discloses that a basic rate interface, a remote line termination unit, a remote data terminal, a subscriber line interface circuit operate as termination units. However, while we may agree with the appellant that the following devices are disclosed and may be considered termination devices, it is our opinion, as we stated at pages 3 and 4 of our decision, that the term "termination device" is a broad term that includes both the devices disclosed by the appellant and the splitter described in McHale.

Appellant also argues that the termination in McHale occurs after splitter 50. We will not consider this argument as it is being made for the first time in this request for rehearing which is limited to the points overlooked or misapprehended in the original

Appeal No. 2004-1579
Application No. 09/496,549

decision. As this argument was not made in the brief or the reply brief, it could not have been overlooked or misapprehended.

In any case, even if appellant is correct that termination of the line occurs after the splitter 50, such would not establish that splitter 50 was not also a termination unit as a line can be terminated at splitter 50 and the emerging line terminated after splitter 50.

Accordingly, while we have granted appellant's request for rehearing to the extent that we have reconsidered our decision, that request is denied with respect to making any changes therein.

Appeal No. 2004-1579
Application No. 09/496,549

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a) (1) (iv).

REHEARING DENIED

KENNETH W. HAIRSTON
Administrative Patent Judge

MURRIEL E. CRAWFORD
Administrative Patent Judge

MAHSHID D. SAADAT
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

MEC/vsh

Appeal No. 2004-1579
Application No. 09/496,549

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830